

REMARKS

This Amendment is submitted in reply to the Advisory Action dated October 9, 2009 and the final Office Action dated May 29, 2009. A Request for Continued Examination ("RCE") and a petition for a two-month extension of time is submitted herewith. The Director is authorized to charge \$1170.00 for the RCE and the two-month extension of time with a one month extension of time previously paid on September 29, 2009, and any additional fees that may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 3714652-491 on the account statement.

Claims 10-12, 14, 16, 18 and 20-24 are pending in this application. Claims 1-9, 13, 15, 17 and 19 were previously canceled without prejudice or disclaimer. Claims 25-37 were previously withdrawn from consideration. In the Office Action, Claims 10-12, 14, 16, 18 and 20-24 are rejected under 35 U.S.C. §103. In response, Claim 10 has been amended, and Claims 38-46 have been added. The amendments do not add new matter. In view of the amendments and/or for at least the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

Claims 18 and 20-21 have been canceled without prejudice or disclaimer thereby rendering moot the rejections of these claims.

First Obviousness Rejection

In the Office Action, Claims 10-12, 14, 16 and 23-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over International Patent Publication No. WO 00/65937 to Prasad et al. ("*Prasad*") in view of U.S. Patent No. 3,965,259 to Coppage et al. ("*Coppage*"), U.S. Patent No. 3,808,340 to Palmer ("*Palmer*") and U.S. Patent No. 3,073,700 to Ziegler ("*Ziegler*"). Applicants respectfully traverse the rejection for at least the reasons set forth below.

Currently amended independent Claim 10 recites, in part, an animal food composition comprising an animal food piece including from 55% to 85% by weight of at least one of a meat and a fish, from 10% to 25% by weight of a cereal, and from 6% to 15% by weight of water, and a coating on the pet food piece and having a roasted appearance after cooking. The amendment is supported in the specification, for example, at page 6, lines 26-33. Applicants have also amended Claim 10 to recite, in part, that the coating comprises from 5% to 10% by weight of at

least one of a source of pigments or colorants selected from the group consisting of a powdered blood, a frozen blood and combinations thereof, and a source of proteins selected from the group consisting of a plasma, a gluten, a blood, and combinations thereof. The amendment is supported in the specification, for example, at page 4, lines 20-25. In contrast, the cited references fail to disclose or suggest each and every element of independent Claim 10.

Applicants have surprisingly found that preparing an animal food piece with a coating including a source of pigments or colorants such as a powdered blood or a frozen blood provides the coating with a roasted appearance after cooking. If the cooking temperature is sufficiently high, the proteins coagulate and fix the pigment, thereby creating a surface which is browned in a scattered manner and thus appears roasted rather than merely colored. See specification, page 1, paragraph 7; paragraph 8, lines 5-12.

The cited references fail to disclose or suggest a coating having a roasted appearance after cooking on an animal food piece including from 55% to 85% by weight of at least one of a meat and a fish, from 10% to 25% by weight of a cereal, and from 6% to 15% by weight of water as required, in part, by independent Claim 10.

The Patent Office asserts that *Prasad* teaches “employing colorants or pigments for the purpose of imparting a roasted appearance to [a] food product.” See Office Action, page 3, lines 1-3. However, nowhere does *Prasad* disclose or suggest that its fish or meat products including a marinade are animal food compositions. In fact, *Prasad* fails to disclose the specific ranges and components of the claimed animal food piece having a combination of a meat, a cereal and water specifically formulated for an animal food product. As such, *Prasad* fails to disclose or suggest an animal food piece including a coating having a roasted appearance after cooking in accordance with the present claims. Similarly, *Ziegler* is entirely directed to a blood pigment preparation for meat products and fails to disclose an animal food piece including a coating having a roasted appearance after cooking. See *Ziegler*, Title; column 1, lines 10-29.

Although *Coppage* and *Palmer* disclose animal food compositions, those references fail to disclose an animal food piece including a coating having a roasted appearance after cooking. See *Coppage*, Abstract, lines 1-5; column 1, lines 49-52; column 2, lines 29-36; *Palmer*, column 1, lines 10-32. Instead, *Coppage* discloses a nutritionally balanced animal food composition that incorporates soybean fiber chunks to resemble a canned all-meat product. See *Coppage*,

Abstract, lines 1-5; column 2, lines 29-36. *Palmer* discloses an animal food product comprising a core and a cover layer composed of meat and meat by-products. See *Palmer*, column 1, lines 10-32. Therefore, the cited references fail to disclose an animal food piece including a coating having a roasted appearance after cooking in accordance with Claim 10.

The cited references also fail to disclose or suggest a coating having a roasted appearance after cooking wherein the coating comprises from 5% to 10% by weight of at least one of a source of pigments or colorants such as a powdered blood, a frozen blood or a combination thereof as required by independent Claim 10. The Patent Office admits that *Prasad* fails to disclose the claimed source of pigments or colorants and instead relies on *Coppage*, *Palmer* and *Ziegler* for the claimed element. See Office Action, page 3, lines 1-18. However, contrary to the Patent Office's assertion, none of the cited references discloses using powdered blood or frozen blood as a colorant at the claimed range that provides a roasted appearance coating on an animal food piece. For example, *Coppage* merely teaches incorporating dried blood into its overall base composition and does not use or intend to use it as a coloring agent. See *Coppage*, column 8, lines 25-47. In fact, although *Coppage* lists several coloring agents separately from the remaining ingredients in its composition, Applicants note that dried blood is not grouped with the coloring agents but is instead listed separately from the coloring agents. See, *Coppage*, column 8, lines 25-47.

Similarly, although *Palmer* teaches using blood in its coating material, nowhere does *Palmer* disclose or suggest that the blood is used either as a coloring agent or in the claimed range. See *Palmer*, column 7, lines 15-45. The portion of *Palmer* relied on by the Patent Office merely teaches that the coating may include coloring agents and, in a separate section, that the coating can include 1.6% by weight of beef blood, which is significantly below the level required by Claim 10. See *Palmer*, column 3, lines 38-42; column 7, line 35. As a result, *Palmer* fails to teach or suggest that the beef blood is used a coloring agent or provides a coloring effect. Furthermore, *Ziegler* merely teaches incorporating whole blood in the meat itself to impart a desirable red color to the finished meat product, rather than using the blood as a colorant for coating the meat. See *Ziegler*, column 1, lines 10-40. As such, the cited references fails to disclose or suggest a coating having a roasted appearance after cooking wherein the coating

comprises a specified range of powdered blood and/or a frozen blood in accordance with Claim 10.

In sum, *Prasad*, *Coppage*, *Palmer* and *Ziegler* and alone or in combination fail to disclose or suggest the pet-treatment formulation or composition as required by independent Claim 10. Moreover, *Prasad*, *Coppage*, *Palmer* and *Ziegler* fail to even recognize the advantages, benefits and/or properties of a coating having a roasted appearance after cooking on an animal food piece in accordance with Claim 10. Accordingly, Applicants respectfully submit that Claim 10, along with the claims that depend from Claim 10, are novel, nonobvious and distinguishable from the cited references.

Accordingly, Applicants respectfully request that the rejection of Claims 10-12, 14, 16 and 23-24 under 35 U.S.C. §103(a) to *Prasad*, *Coppage*, *Palmer* and *Ziegler* be withdrawn.

Second Obviousness Rejection

In the Office Action, Claim 22 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Prasad*, *Coppage*, *Palmer* and *Ziegler*, and further in view of U.S. Patent No. 4,089,983 to Hood ("*Hood*"), U.S. Patent No. 4,508,741 to Corbett et al. ("*Corbett*"), Encyclopedia of Food Science and Technology to Francis ("*Francis*"), U.S. Patent No. 3,434,843 to Durst ("*Durst*"), Dictionary of Food Ingredients to Igoe ("*Igoe*"), U.S. Patent No. 2,567,085 to Stoloff ("*Stoloff*") and U.S. Patent No. 3,873,736 to Palmer et al. ("*Palmer II*"). Applicants respectfully submit that the patentability of Claim 10 as previously discussed renders moot the obviousness rejection of Claim 22 that depends from Claim 10. In this regard, the cited art fails to teach or suggest the elements of Claim 22 in combination with the novel elements of Claim 10.

As discussed previously, the combination of *Prasad*, *Coppage*, *Palmer* and *Ziegler* fails to disclose or suggest a coating having a roasted appearance after cooking on an animal food piece including from 55% to 85% by weight of at least one of a meat and a fish, from 10% to 25% by weight of a cereal, and from 6% to 15% by weight of water as required by independent Claim 10 from which Claim 22 depends. The Patent Office relies on the remaining cited references merely for the disclosure of the caramelized sugar, gluten, flour, guar, carboxymethyl cellulose and sodium alginate used in the coating. See Office Action, page 4, lines 17-22; page 5, lines 1-12; Non-Final Office Action dated December 2,

2008, pages 10-14; page 15, lines 1-8. Nowhere do the additional references disclose or suggest an animal food piece including a coating having a roasted appearance that includes the claimed range and source of pigments or colorants, nor does the Patent Office cite support for such claimed element. As such, even if combinable, *Hood, Corbett, Francis, Durst, Igoe, Stoloff* and *Palmer II* fail to remedy the deficiencies of *Prasad, Coppage, Palmer* and *Ziegler* with respect to Claim 22.

Accordingly, Applicants respectfully request that the rejection of Claim 22 under 35 U.S.C. §103(a) to *Prasad, Coppage, Palmer, Ziegler, Hood, Corbett, Francis, Durst, Igoe, Stoloff* and *Palmer II* be withdrawn.

Applicants further note that Claims 38-46 have been newly added. No new matter has been added thereby. The new claims are fully supported in the specification, for example, at page 5, lines 6-32, and page 6, lines 26-33. Applicants respectfully submit that Claims 38-46 should be allowed.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly request an early allowance of the same. In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Respectfully submitted,

~~K&L GATES LLP~~

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